

### **REMARKS/ARGUMENTS**

The courteous interview granted by the Examiner on August 1, 2007 is greatly appreciated. This amendment has been prepared in accordance with the discussions had at the interview.

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the amendments and remarks herewith. The present amendment is being made to facilitate prosecution of the application.

Claims 18–34 and 47–51 are pending. Claims 1–17 and 35–46 have been previously canceled, without prejudice or disclaimer of subject matter. Claims 18 and 47 are amended. No new matter has been introduced by this amendment. Support for the amended claims is provided throughout the Specification as originally filed, and specifically on pages 14–16.

The Examiner rejected claims 18, 21–26 and 28 under 35 U.S.C. § 103 (a) as being unpatentable over U.S. Patent Number 4,426,923 (“Ohata”) in view of U.S. Patent No. 4,835,351 (“Smith”) and U.S. Patent No. 6,011,243 (“Arnold”). Claims 19 and 20 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over Ohata, in view of Smith and Arnold and further in view of U.S. Patent Number 4,189,631 (“Baker”). Claims 27, 29, and 47–50 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over Ohata, Smith and Arnold, and further in view of U.S. Patent Number 5,901,642 (“Su”). Claims 30 and 31 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over Ohata, Smith, Arnold and Su, and further in view of U.S. Patent Number 4,436,082 (“Hiller”). Claims 32 and 51 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over Ohata, Smith, and Arnold, and further in view of U.S. Patent Number 4,143,592 (“Kuest”). Claim 33 was rejected under 35 U.S.C. § 103 (a) as being unpatentable

over Ohata, Smith, Arnold and Su, and further in view of U.S. Patent Number 6,607,766

(“Ewald”). These rejections are traversed for the following reasons.

There are two pending independent claims: claim 18 and claim 47. Both claims are drawn to a method of storing a single pre-processed food product, or multiple pre-processed food products, “in a food cabinet housing having a plurality of removable and enclosable food product compartments enclosed in a plurality of shelf levels.” In addition, both claims require the step of removing pre-processed food products before a predetermined amount of time and that the pre-processed food products that have been conditioned, or stored, for a length of time closest to the predetermined amount of time are removed first. These elements are neither taught nor suggested by the cited references.

As understood by Applicants, Ohata teaches a storage device for processed foods with a single storage chamber (1). Ohata does not teach, however, any steps for controlling and sequencing the removal of pre-processed food products from its single storage chamber (1). While Ohata does teach automatically controlling “the temperature and humidity of the air in the storage device” (col. 1, ll. 34–36), Ohata does not teach—expressly or inherently—controlling and sequencing the removal of food products. Instead, Ohata envisions the heating of a group of items that are removed simultaneously and not in any particular sequence. Ohata states:

When a small dining table with cooked or broiled foods placed thereon is inserted as it is in the storage chamber so as to be withdrawn therefrom at dinner time, the processed foods on the small dinner table can be kept hot and in a just-processed condition until the foods have been served. Therefore, a table, on which foods in a just-processed condition are placed, can be set before a customer speedily. (Col. 6, ll. 8–15.)

In contrast, the present invention requires that the pre-processed food products having been stored or conditioned for a length of time closest to a predetermined amount of time are removed first.

Smith similarly fails to teach the required controlling and sequencing. As understood by Applicants, Smith relates to a cooking device with three cooking cavities each having programmable microwave heating unit, an air circulation unit, and a hot plate unit.” (Col. 1, ll. 16–18.) While Smith does teach a “mechanism” that “permits programming each of the heating units within each cavity.” (Col. 3, ll. 67–68.) Smith does not teach the required step of controlling and sequencing the food removal. In fact, Smith does not teach any steps for storing a pre-processed food product in a food cabinet housing.

Su similarly fails to teach any controlling and sequencing of food removal. Applicants understand Su to teach a “steam cabinet exclusively designed for steaming and keeping warm various types of soup.” (Col. 1, ll. 8–9.) Su does not teach any controlling at all. Su teaches an oven fixture below a water tank at the base of the cabinet but does not teach any mechanism to control the heat or steam. Similarly, Su does not teach any controlling or sequencing for the removal of the soup. Instead, “[e]ach bin can be separately pulled out when the soup desired is ordered” (col. 1, ll. 22–23)—without any regard to the order in which the soup was placed in the bin or the length of time that a particular cup of soup had been in the bin. In contrast, the present invention requires that the food products be removed before a predetermined amount of time and that the pre-processed food products that have been conditioned, or stored, for a length of time closest to the predetermined amount of time are removed first. Su does not teach the required controlling and sequencing the removal of the pre-processed food products.

Arnold teaches a method for staging food in a holding cabinet by indicating the food which is closest to its expiry time via lights. Arnold also teaches passageways. (Col. 26, ll. 46.) Arnold does not teach removable and enclosable food product compartments enclosed in a plurality of shelf levels. Nor does Arnold teach the controlling and sequencing of the removal of the pre-processed food products from those removable and enclosable compartments at any shelf level of the cabinet. Arnold does not teach the required step of placing a pre-processed food product into at least one removable and enclosable compartment.

Baker, Hiller, Kuest, and Ewald similarly fail to teach or suggest removing pre-processed food products before a predetermined amount of time and removing the pre-processed food products that have been conditioned, or stored, for a length of time closest to the predetermined amount of time are removed first. It is therefore respectfully submitted that claims 18 and 47 are patentable.

The remaining claims of this application are each dependent from one of the independent claims discussed above and are therefore patentable for at least the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

Thus, none of the references cited on their own, or in combination, teach applicant's claimed invention of claims 18-34 and 47-51. Accordingly, the Examiner's rejection of those claims based upon 35 U.S.C. § 103 has respectfully been overcome by the present response and withdrawal thereof is respectfully requested.

### **Drawings**

In accordance with the Examiner's request, a new set of formal drawings is attached.

**CONCLUSION**

Applicants respectfully submit that all of the claims are in condition for allowance and requests early passage to issue of the present application.

In the event the Examiner disagrees with any of statements appearing above with respect to the disclosure in the cited references, it is respectfully requested that the Examiner specifically indicate those portions of the references providing the basis for a contrary view.

Please charge any additional fees that may be needed, and credit any overpayment, to our Deposit Account No. 50-0320.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP  
Attorneys for Applicant

By \_\_\_\_\_  
Matthew K. Ryan  
Reg. No. 30,800  
(212) 588-0800